



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

EX PARTE CLEVELAND KILGORE and	§	
EX PARTE CLEVELAND WINSTON	§	
KILGORE, JR., jointly and severally petitioners	§	
Petitioner,	§	
	§	
vs.	§	CIVIL ACTION NO. 0:08-506-HFF-BM
	§	
UNITED STATES GOVERNMENT and	§	
WARDEN MICHAEL PETTIFORD,	§	
Respondents.	§	

ORDER

This is a prisoner action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that (1) the petition be dismissed without prejudice and without requiring Respondents to file a response and (2) Petitioner's "Motion for Leave to Submit Pursuant to Rule 65 Prohibitory Injunction" be denied. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 6, 2008, and the Clerk of Court entered Petitioner's objections to the Report on March 13 and 17, 2008. The Court has reviewed the objections, but finds them to be without merit.

Therefore, after a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Petitioner's objections, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the petition be **DISMISSED** without prejudice and without requiring Respondents to file a response. Moreover, because Petitioner has failed to set forth any proper factual or legal basis that would make the granting of his "Motion for Leave to Submit Pursuant to Rule 65 Prohibitory Injunction" appropriate, that motion is **DENIED**.

IT IS SO ORDERED.

Signed this 20th day of March, 2008, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.